

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2018

CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

Writ Petition No.20879 of 2018

P.Nachimuthu

... Petitioner

Vs

1. The District Registrar, District Registration Office,
Tiruppur, Tiruppur District

2. The Sub-Registrar, Thottipalayam,
Tiruppur District

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of Check Slip, dated 15.06.2018 on the file of the second respondent, quash the same and to consequently direct the second respondent to register and release the final decree, dated 13.07.2017, passed in O.S.No.488 of 2016 on the file of the Additional Subordinate Judge at Tiruppur to the petitioner within the stipulated time fixed by this Court.

For Petitioner : Mr. K.Myilsamy

For Respondents : Mr. T.M.Pappiah, Spl.G.P.,

O R D E R

This writ petition has been filed by the petitioner seeking for the issuance of a writ of certiorarified mandamus to call for the records of Check Slip, dated 15.06.2018 on the file of the second respondent, quash the same and to consequently direct the second respondent to register and release the final decree, dated 13.07.2017, passed in O.S.No.488 of 2016 on the file of the Additional Subordinate Court, Tiruppur to the petitioner within the stipulated time fixed by this Court.

2. The brief facts, in nutshell, are thus:-

The petitioner filed a Partition Suit in O.S.No.488 of 2016 on the file of the Additional Subordinate Court, Tiruppur. The said partition suit ended in compromise and a compromise has been arrived at. Recording the terms of the compromise, compromise decree was passed. The petitioner has applied for a copy of compromise decree for the purpose of registration. Upon deposit of requisite stamp papers and after completing procedural formalities, the final decree was engrossed on the

stamp papers by the Registry of the District Court at Tiruppur. The original final decree was made ready only on 15.02.2018. The petitioner, due to his illness, has presented the original final decree before the second respondent for registration only on 11.05.2018, however, the same was well within the period of four months as contemplated under the Act. However, the second respondent refused to register the compromise decree on the ground that it was presented beyond the period of four months. It is to be noted that the time for registering the decree runs only from the date of release of the decree and not the date of decree. Even assuming that the petitioner has presented the decree beyond four months period, it has to be referred to the first respondent for getting directions. But on the contrary, the second respondent had passed the order, without having any jurisdiction and refused to register. Challenging the same, the present writ petition is filed by the petitioner.

2. Heard the learned counsel appearing for both sides.

3. According to the learned counsel appearing for the petitioner, the limitation for the registration of the decree will run from the date of release of the decree and not from the date of the decree. The learned counsel also relied upon the decision reported in AIR 2009 Delhi 29 (Shri Gurjeet Singh v. Sarabjeet Singh and ors) in support of his said submission.

4. This Court heard the learned Special Government Pleader appearing for the respondents on the said submissions made by the learned counsel appearing for the petitioner.

5. A perusal of the decision reported in AIR 2009 Delhi 29 (referred to supra) would go to show that the date of execution of decree would be the date on which it is actually signed and is different from the date of decree and as per Section 23 of the Act, the time for registration will run only from the date of release of the decree. In the said decision, in paragraphs 7 to 9, it has been held as follows:-

"7. Applying the same principles to the present case, the Defendant No. 1, even after the day on which the decree was made could not have presented the decree for registration before 3rd May, 2008 when the same was released by this court. The defendant no.1 ought not to suffer and hence, for the purposes of section 23 of the Registration Act, the time for registration will run only from the date of release of decree.

8. Accordingly, Sub Registrar V, Mehrauli, New Delhi, is directed to register the decree, subject to other objections, if any. Let the copy of this order be given dasti to the defendant no.1.

9. The Registry to also, in future, while making the decree and/or releasing decree for registration, to mention endorse thereon, the date of making/signing thereof and the date of release thereof, to enable the Registrar concerned to accordingly compute the period of registration.

6. In such circumstances, the impugned order is set-aside, the matter is remitted back to the authority to pass appropriate orders in line with the decision rendered by the High Court of Delhi, cited supra, within a period of two weeks from the date of receipt of a copy of this order.

7. With the above directions, this writ petition is disposed of. No costs.

-s/d-

Assistant Registrar(CS-IX)

True Copy

Sub-Assistant Registrar

srk

To

1. The District Registrar, District Registration Office,
Tiruppur, Tiruppur District
2. The Sub-Registrar, Thottipalayam,
Tiruppur District

+1 CC to Mr. K.Myilsamy, Advocate sr 57389.

+1 CC to Govt. Pleader sr 57899.

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सत्यमेव जयते

VGI (CO)
SP(17/09/2018)

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